



Case 0876-0146  
(1751)

IN THE UNITED STATES PATENT AND TRADEMARK

In re application of )

Examiner: Sayala, Chhaya D.

James H. Keithly )  
Thomas Taggart )

Group Art Unit: 1761

DRIED CITRUS PEEL SUPPLEMENT)  
FOR USE IN COMMERCIAL )  
POULTRY FEED )  
Serial No.: 10/017,126 )  
Filed: December 14, 2001 )

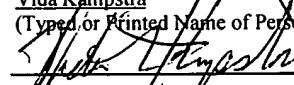
CERTIFICATE OF MAILING

Date of Deposit February 13, 2006

I hereby certify that this paper or fee is being deposited with the United States Postal Service on the date indicated above and is addressed to:

Commissioner of Patents  
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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The following information is called to the attention of the U.S. Patent and Trademark Office concerning an allegation that has been made by a third party that he is an inventor of the invention of the subject patent application. Applicant disagrees with this allegation and has concluded that the inventorship is proper; nevertheless, this is brought to the attention of the Office in view of language found in the recent decision of the District Court for the Eastern District of Missouri, Eastern Division, *In re Metoprolol Succinate Patent Litigation*, Case 4:04 MDL Doc. No. 01620-RWS. The Final Judgment is dated February 10, 2006.

More specifically, David L. Wilson is a named co-inventor on certain patents claiming subject matter that uses raw materials of the type that are used in the present application. More particularly, Mr. Wilson is a named co-inventor with the named co-inventors of the subject application in U.S. Patent No. 6,523,496, U.S. Patent No. 6,708,847, Patent No. 6,860,232 and Patent No. 6,942,883. These patents, in which Mr. Wilson is named as a co-inventor, claim inventions concerning use of citrus peel products as **litter** for poultry operations. The present application relates to using citrus peel as a **low-level feed supplement**.

In the latter two patents identified in the preceding paragraph, Mr. Wilson's representative filed a paper entitled "Petition To Divide Application Serial No. 10/342,481 and Application Serial No. 10/671,409." Because of the bulk of this Petition, a copy of this is not submitted with this paper, which was filed in these two applications. Selected documents from this paper are enclosed. These are entitled:

- (1) "COMBINED DECLARATION OF E.J. ASBURY III AND DAVID WILSON IN SUPPORT OF PETITION UNDER 37 CFR 1.182 AND MPEP 402.10 APPOINTMENT/REVOCATION BY LESS THAN ALL APPLICANTS OR OWNERS"
- (2) "AFFIDAVIT OF DAVID L. WILSON IN SUPPORT OF PETITION UNDER 37 CFR 1.182 AND MPEP 402.10 APPOINTMENT/REVOCATION BY LESS THAN ALL APPLICANTS OR OWNERS"
- (3) Letter dated April 6, 2004 from E.J. Asbury III, LLC; and
- (4) Letter dated April 15, 2004 from the undersigned.

Concerning Document (1) noted above, particular attention

is directed to paragraphs 10-17. The allegation that is the subject of this IDS is summarized in paragraph 16 of that document indicating Mr. Wilson believes he is properly "an inventor in that application" [the present application].

Attention also is directed to paragraphs 6-8 in Document (2), Mr. Wilson using substantially the same language as Mr. Asbury while stating he believes he is "properly an inventor in that application" [the subject application].

Attention also is directed to the first two paragraphs of Document (3), again stating a belief that Mr. Wilson "is properly an inventor in that application" [the subject application].

Attention is directed to the last paragraph on page 3 of Document (4) which summarizes the position of applicant, both then and now. Applicant's counsel requested concrete information that would be contrary to applicant's conclusion that Mr. Wilson is not a co-inventor of the technology of the subject application. Despite repeated efforts to have Mr. Wilson provide applicant or its counsel with any documentation to support the stated belief of Mr. Wilson and/or his counsel that Mr. Wilson is "properly an inventor", to date no such concrete information has been provided.

As further information concerning this topic, attached is a letter of October 24, 2003 of the undersigned asking for any such information. Attention is particularly directed to the first two paragraphs of this letter indicating that applicant had investigated the possibility that Mr. Wilson is an inventor of the subject application and concluded that he was not. This

is Document (5).

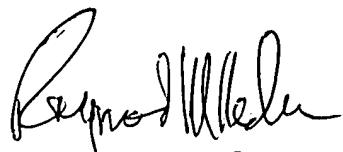
Further enclosed is a letter from Mr. Asbury of October 21, 2003 raising this issue. This is Document (6).

Applicant brings this information to the attention of the Office without admitting its relevance or materiality to the prosecution of the subject application. Applicant continues to be of the belief that the co-inventorship of this application as filed and prosecuted is correct. The conclusion of its evaluation noted above that Mr. Wilson is not a co-inventor of the claimed subject matter of this application is supported by the fact that Mr. Wilson has not provided, after the passage of years, concrete information that he is a co-inventor of the subject low-level feed supplement application in addition to the litter application. Applicant has no control over Mr. Wilson and cannot force him to provide any documents or information that he or his counsel might have which would contradict the materials and information available to applicant that led to the conclusion that Mr. Wilson is not an inventor of the feed supplement subject matter claimed in the present application.

This statement is provided in order to comply with 37 C.F.R. §1.56, §1.97 and §1.98, and this statement is not to be construed as a representation that no information exists which is more material than this statement, or that the information is considered to be material to patentability.

Respectfully submitted,

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